

REMARKS

Enclosed is an Information Disclosure Statement which makes of record prior art drawn to the Applicant's attention during prosecution of the corresponding EPO application. Please consider this art upon reconsideration of this application.

Claims 7-12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The Examiner indicated in the indefiniteness rejection that the leak flowpath (30) only communicates with one of the flow paths (10), but not the other flow path (8). To clarify this matter the Applicant has amended FIG. 1 in accordance with the specification at paragraph [0025] which states in part that, ". . . the variable throttle may be provided on the rod side flow path 8". FIG. 1 is also amended to more clearly indicate that the object to be transferred 26 contacts the stationary object 28 also in the retracting direction. As discussed in paragraph [0025] "However, when the rod 24 is moved in a retracting direction to press the object to be transferred 26 against the stationary object, the leak flow path 30 the electromagnetic valve 31, and the variable throttle may be provided on the rod side flow path 8."

As these drawing amendments are diagrammatic in nature and expressly supported in the specification as set forth above, and because the same structures of the stationary object 28 and variable throttle 32 as shown on leak flowpath (10) and as in originally filed FIG. 1, the Applicant does not believe there is any issue of new matter. Accordingly, the independent claims 7 and 12 include the recitation, "a throttle is disposed on a leak flow path that communicates *between* a high pressure side and a low pressure side of *at least one* of the pair of flow paths". As the basis for this subject matter is clearly set forth in the specification, and now in the drawings as amended, the Applicant does not believe there is any issue with respect to indefiniteness or new matter.

Claims 7, 10 and 11 are rejected, under 35 U.S.C. § 102(b), as being anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Sheesley et al. '347. The Applicant

thanks the Examiner for indicating that claims 7-9 and 12 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112 and to include all limitations of the base claim and any intervening claims. Accordingly, the subject matter of claim 8 has been incorporated into claim 7 and claim 12 is now an independent claim including the subject matter of previous claim 7. If any further amendments are necessary to place this case in condition for allowance, the Examiner is courteously requested to contact the undersigned attorney of record to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised indefiniteness and anticipation rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Sheesley et al. '347 reference, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejections should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

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In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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FIG. 1

